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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/810,482	03/26/2004	Etienne Kissling	7863.13	9794

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EXAMINER

SIPOS, JOHN

ART UNIT PAPER NUMBER

3721

DATE MAILED: 03/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/810,482

Applicant(s)

KISSLING, ETIENNE

Examiner

John Sipos

Art Unit

3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 24 January 2005.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-20 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

### ***REJECTIONS OF CLAIMS BASED ON PRIOR ART***

Claims 1,2,4-12 and 14-20 are rejected under 35 U.S.C. ' 103(a) as being unpatentable over the patent to Massey (3,451,187) in view of Soleri (6,761,016). The patent to Massey shows a packaging machine comprising of a support structure for a film supply on the side of the machine, rollers to grip and feed the film from the supply, a plurality of product dispensers 18, a longitudinal heat sealers 15 that from a plurality of seals in the film, a plurality of blades 61 aligned with the heat sealers to cut the sealed film into a plurality of strips, opposing cross heat sealers 20 and cross blades 75,76 to cut the film into individual bags. The longitudinal sealers, the cross sealers and the cross cutters reciprocate in the direction of the film movement.

The patent to Massey does not show the use of two supply rolls, independent reciprocating mechanism and filling pumps. The patent to Soleri shows a packaging machine comprising of a support structure for a pair of film supply rolls on the side of the machine, rollers to grip and feed the film from the supply (Figure 6), a plurality of product pumps (column 6, line 20-23), a longitudinal heat sealers 20 that from a plurality of seals in the film, a plurality of blades 21 aligned with the heat sealers to cut the sealed film into a plurality of strips, opposing cross heat sealers 22 and cross blades 18 to cut the film into individual bags. The longitudinal sealers and the cross cutters reciprocate in the direction of the film movement. Each of the mechanisms are operated by separate servos systems and actuators as set forth in column 5, lines 4-7, column 5, lines 55-58 and column 6, lines 9-12.

It would have been obvious to one skilled in the art to use two supply rolls in the Massey device as shown by Solari to eliminate the complicated slitting and alignment operation of a

single web. It would have been also obvious to one skilled in the art to provide Massey with pumps as shown by Solari to positively feed the product into the bags. It would have also been obvious to one skilled in the art to separate the mechanisms and drive them with separate servos and actuators as shown by Solari to permit separate control and adjustment of each mechanism.

**Claims 3 and 13** are rejected under 35 U.S.C. ' 103(a) as being unpatentable over the patent to Massey (3,451,187) in view of Gaylor (5,460,844). The patent to Massey does not show the use of opposing shafts with a plurality of rollers on the shaft that grip and feed the film material. The patent to Gaylor shows a packaging machine comprising a film feeding mechanism for feeding a plurality of parallel packaging lines with opposing shafts 61 carrying rollers 62,63 to feed and grip the whole width of the film. It would have been obvious to one skilled in the art to provide Massey with film feeding means such as shown by Gaylor to feed and grip the whole width of the film.

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### ***RESPONSE TO APPLICANT'S ARGUMENTS***

Applicant's arguments with respect to the claims have been considered but are not persuasive. Regarding the arguments concerning the continuous operation of the claimed machine, the action of the various mechanisms of the applied references is continuous in the same manner as the mechanisms recited in the claims of the application since in both instances the mechanisms reciprocate, i.e. move back and forth stopping at the two extreme upper and lowered positions, while continuously performing this operation. The claimed language of "continuously making pouches" or an operation "without interrupting flow through the apparatus" can be read on the operation of a machine without being shut off even though the

various mechanisms move in an intermittent, reciprocating, manner. In this sense, both the references to Massey and Solari, as applicant's machine, comprise continuous, uninterrupted operations.

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**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

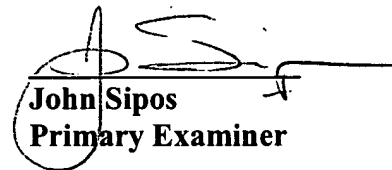
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Any inquiry concerning this communication should be directed to **Examiner John Sipos** at telephone number **571-272-4468**. The examiner can normally be reached from 6:30 AM to 4:00 PM Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Rinaldi Rada, can be reached at **571-272-4467**.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group Receptionist whose telephone number is **571-272-3700**.



**John Sipos**  
**Primary Examiner**